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*Preventing and reducing alcohol related harm by advancing evidenced-based alcohol policy.*  
*alcoholpolicy.org*

August 18, 2021

Ms. Amy Greenberg  
Director, Regulations and Rulings Division  
Alcohol and Tobacco Tax and Trade Bureau  
1310 G Street, NW, Box 12  
Washington, DC 20005

RE: Docket Number TTB-2021-0007, Notice No. 204

Dear Director Greenberg:

On behalf of the U.S. Alcohol Policy Alliance, we appreciate the opportunity to submit this comment in response to Docket Number TTB-2021-0007, Notice No. 204 to oppose industry pressure to remove established regulations that protect the public's health and safety. In a year that saw record profits for the alcohol industry, any reduction in health standards risks exacerbating trends in alcohol use disorders and serious alcohol-related harms that worsened during the COVID-19 pandemic.

We are concerned that the Treasury Department request for information contained no mention of "public health." In contrast, the Presidential Executive Order to which it is responding called for an examination of "any unnecessary trade practice regulations of matters such as bottle sizes, permitting, or labeling that may unnecessarily inhibit competition by increasing costs *without serving any public health, informational, or tax purpose.*" We have added the italics to emphasize the Order's attention to public health. This omission is critical, because the primary purpose of most alcohol regulation is the protection of public health.

The Treasury Department's review of the production, permitting, labeling, and advertising requirements in accordance with the Federal Alcohol Administration Act (FAA) serves as the national cornerstone for protecting the public's health. We urge the Division to consider two key facts: 1) Alcohol is a unique product with serious public health consequences, and 2) The FAA was designed and adopted to provide an important balance between the marketplace and the public's health and safety. As the alcohol industry consolidates and corporate interests align, the Alcohol and Tobacco Tax and Trade Bureau (TTB) serves as the critical defense to maintain proven regulations that protect children and communities.

*Why alcohol is unique and must be reviewed with a broader lens beyond economics.*

Alcohol use is a leading risk factor for premature death and disability among individuals 15 to 59 years of age.[1] Excessive alcohol use was a major driver of mortality in the United States even before the pandemic, contributing to at least 95,000 deaths annually,[2] including one in every 10 deaths among adults 20 to 64 years of age.[3] Prior to the pandemic, rates of excessive drinking increased among middle-aged non-Hispanic White men and women.[4] We have every indication that those rates have burgeoned over the last year and a half.[5]

A number of risk factors are correlated with adult alcohol misuse, including initiation of alcohol use at a young age, comorbid mental health conditions, and adverse childhood experiences.[6] Rapid deregulation of numerous alcohol prevention policies at the federal, state, and local levels – set in motion with the pandemic – is contributing to large-scale changes in alcohol availability and increases in consumption levels. Examples include increases in alcohol outlet density, privatization of retail sales, reduced alcohol prices (tax cuts in addition to tax levels falling behind inflation), and more widespread alcohol advertising, both on television and online.[7-9]

Prior to COVID-19, alcohol problems in the U.S. were getting worse, not better. Emergency room visits involving alcohol consumption rose by 62% from 2006-2014.[10] The age-adjusted death rate for alcoholic liver disease rose by 37% from 2000 to 2017.[11] Alcohol-specific death rates for 18-34 year-olds rose 69% from 2007-2017.[12] Alcohol-induced deaths (that is, deaths for which alcohol was the sole cause) increased 1.4-fold in the entire population from 1999-2017.[13] Regarding the well-publicized epidemic of “deaths of despair,” a recent analysis of health claims from 12 million patients found alcohol responsible for 54% of these deaths, with prevalence up 37% from 2009-2018.[14]

As noted above, evidence suggests that the scope of alcohol-related harms has only worsened during the pandemic. Studies have found increases in: average drinks per day, drinking above the dietary guidelines, binge drinking,[5] and in days of heavy drinking, particularly among women.[15] Additionally, significant increases in risky drinking among college students have been documented, again with greater risk for women.[16] States with extended periods of pandemic-related lockdowns saw significant increases in alcohol use disorders, unlike states not subject to lockdowns.[17] And persons with alcohol use disorders had nearly seven times higher odds than other COVID-infected patients of hospitalization due to infection from the coronavirus.[18]

The U.S. Alcohol Policy Alliance implores the TTB to maintain existing alcohol regulations. Alcohol is a causal risk factor for at least seven cancers, liver disease, infectious diseases, unintentional injuries, violent crime (including physical and sexual assault and homicide), mental health conditions (e.g., anxiety, stress, and depression), and suicide.[19] Alcohol consumption is associated with a seven-fold greater risk for suicide, and heavy alcohol use is associated with a 37-fold greater risk.[20] Furthermore, in 2019, more than 10,000 people died in a motor vehicle crash involving an alcohol-impaired driver.[21] In 2010, the most recent year for which data are available, the U.S. spent more than \$44 billion on alcohol-related crashes.[22] Any reduction in regulations that protect the public’s health threatens to compound increases in alcohol-related harms associated with the COVID-19 pandemic.

### *Historical context and public health rationale for the FAA*

The FAA maintains a critical federal role for the approval of alcohol products, labeling, and product size. The Act also gave the federal government responsibility for preventing vertical integration of the industry, through creation of the three-tier system and the requirement that

these tiers (production, wholesale, retail) be financially independent of one another. This structure was designed to help promote competition and protect public health and safety by safeguarding against the monopolistic abuses that vertical integration had facilitated before federal Prohibition. Record alcohol profits and consolidation threaten to disrupt this bulwark against monopoly interests.

Yet, in recent years, state and federal lawmakers appear to have forgotten the public health rationale for these regulations; as a result, important regulatory safeguards are being removed. This poses great danger to public health and the market. Pricing policies are one of the most effective strategies to prevent heavy alcohol consumption, yet Congress passed a large tax cut for alcohol. State legislatures are currently, or on the verge of, codifying measures that extend alcohol availability during the pandemic, such as home delivery, takeout alcohol, and expanded outdoor dining. The increasingly profitable and powerful alcohol industry will continue to suggest that they are somehow disadvantaged by regulations that protect children and communities. We have already seen attacks on “tied house” laws and the removal of restrictions on marketing practices between the tiers have led to aggressive sales tactics, which in turn promote heavy consumption and harm.[23]

The lowest cost of alcohol is not the lowest cost to society, and this must be at the forefront for policymakers and alcohol regulators. Excessive alcohol consumption cost the U.S. \$249 billion (\$2.05 per drink) in 2010 and is responsible for approximately 2.3 million years of potential life lost.[3] Further, two of every five dollars in costs were paid by federal, state, and local governments, highlighting the fact that the American taxpayer is substantially on the financial hook for excessive alcohol use.[24] The TTB must hold the regulatory line.

### *Consolidation in the alcohol industry: The need for more active regulation*

[A July report from the Congressional Research Service](#) indicates that craft beer, wine, and spirits now make up 8% of the overall U.S. alcohol market.[25] However, at the producer level, market power is concentrated in the hands of a small number of companies. This market consolidation has helped the producing companies take over more of the second tier, wholesaling. On the production side, 10 companies account for 70% of sales in each sector. In wine and spirits wholesaling, again just 10 companies currently account for nearly three-quarters of revenues from this tier. In beer, producer AB InBev has also become the largest beer distributor in the U.S., endangering the basic structure of the three-tier system.[8] The size of the big players gives them an outsized voice in national and state policy-making bodies: as of 2017, alcohol companies reported 303 lobbyists in Washington D.C. and spent nearly \$12 million on state-level lobbying.[8]

Concentration in the producer and wholesaler tiers should be examined more closely, as it leads to oligopoly profit-taking and outsized political power for these giant players. In the wine industry, producers are adding to the pressure on the three-tier system by pushing the expansion of direct shipment, bypassing the wholesale tier entirely and adding to the risk of tainted alcohol entering the market, increasing the odds of failing to collect state alcohol taxes, and increasing availability to youth, since home delivery has an abysmal record of age-gating and ID-checking.

### *Other Needed Reforms*

In addition to shoring up the three-tier system, and regarding labeling, where Treasury has clear authority, small craft producers and consumers are ill-served by the lack of ingredient, calorie, or

nutritional labeling on alcoholic beverages. Consumers have little or no information about what is in the alcoholic beverages they purchase – from ingredients to serving size recommendations. The lack of clear guidance on serving sizes has led to numerous tragedies related to consumption of super-sized alcopops, such as Four Loko.[26] We ask that regulations be passed to require more transparency of listed ingredients and the adoption of standard drink sizes to make it more clear to the public and consumers what is in each product.

Further, the existence of the entire high-alcohol malt beverage category, also known as “super-sized alcopops,” continues to be problematic. TTB previously determined that many of these products contained distilled spirits. We urge TTB to repeat, prioritize, and fund its sampling and testing program for these products — 1) to ensure valid internal testing that safeguards against company violations of limits on distilled spirits content of products classified as malt beverages are present, and 2) to confirm for the agency and the public that TTB’s 2005 final rule regarding malt beverage flavorings [27] is being enforced and having the desired effects.

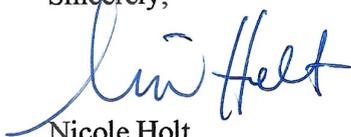
Moreover, the existing alcohol warning label is out of date. The size and placement of the current warning label, and its vague language and failure to name more specific risks, fly in the face of what we have learned about warning label effectiveness through the tobacco experience. Alcohol causes nearly 750,000 cancer cases per year worldwide.[28] In the U.S., alcohol consumption causes approximately 15% of all female breast cancer cases, and at least 32% of these happen at consumption of less than 1.5 standard drinks per day.[28] The lack of a warning label about alcohol’s causal role in cancer may explain why less than half of the U.S. population is aware of this connection.[29] We ask that the following warning label be added to all alcoholic products: **WARNING: According to the Surgeon General, consumption of alcoholic beverages can cause cancer, including breast and colon cancers.** Further, for effectiveness, this warning should have rotating health disclosures, as opposed to a single static warning. [30,31]

Dramatic steps were taken during the pandemic to assist the alcohol industry to survive. Many states have liberalized home delivery regulations, which likely fall under Treasury’s oversight of interstate commerce provisions. Few delivery companies offer training in alcohol service with the result that large percentages of deliveries in test cases have been made with no age verification required. [32,33] The Treasury Department needs to make clear that existing regulations regarding interstate home delivery will be enforced.

Finally, we note that the TTB has an Office of Industry and State Outreach, but no official or routine outreach to the public health community. We request that, given alcohol’s substantial role in generating health problems, that TTB establish a senior public health position, similar to the Director of the Office of Industry and State Outreach, and an ongoing, regularized, and permanent method of reaching out to and consulting with public health authorities and experts regarding alcohol regulation.

Thank you for your consideration of these comments.

Sincerely,



Nicole Holt  
Chair of Board

1. Gore, F. M., Bloem, P. J. N., Patton, G. C., Ferguson, J., Joseph, V., Coffey, C., Sawyer, S. M., et al. (2011). Global burden of disease in young people aged 10-24 years: a systematic analysis. *The Lancet*, 377(9783), 2093–2102.
2. Centers for Disease Control and Prevention. Alcohol Related Disease Impact (ARDI) application (2019). Available at [www.cdc.gov/ARDI](http://www.cdc.gov/ARDI).
3. Stahre, M., Roeber, J., Kanny, D., Brewer, R. D., & Zhang, X. (2014). Contribution of excessive alcohol consumption to deaths and years of potential life lost in the United States. *Preventing Chronic Disease*, 11, E109.
4. Case, A., & Deaton, A. (2015). Rising morbidity and mortality in midlife among white non-Hispanic Americans in the 21st century. *Proceedings of the National Academy of Sciences of the United States of America*, 112(49), 15078–15083.
5. Barbosa, C., Cowell, A. J., & Dowd, W. N. (2020). Alcohol Consumption in Response to the COVID-19 Pandemic in the United States. *Journal of addiction medicine*.
6. U.S. Department of Health and Human Services (HHS), Office of the Surgeon General (2016). Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs, and Health. Washington, DC: HHS.
7. Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., Grube, J. W., et al. (2010). *Alcohol: no ordinary commodity*. Oxford University Press.
8. Jernigan, D., & Ross, C. S. (2020). The alcohol marketing landscape: alcohol industry size, structure, strategies, and public health responses. *Journal of studies on alcohol and drugs. Supplement, Sup 19*, 13–25.
9. Carah, N., & Brodmerkel, S. (2021). Alcohol marketing in the era of digital media platforms. *Journal of Studies on Alcohol and Drugs*, 82(1), 18–27.
10. White, A. M., Slater, M. E., Ng, G., Hingson, R., & Breslow, R. (2018). Trends in Alcohol-Related Emergency Department Visits in the United States: Results from the Nationwide Emergency Department Sample, 2006 to 2014. *Alcoholism, Clinical and Experimental Research*, 42(2), 352–359.
11. Yoon Y-H, Chen CM (2019). Liver cirrhosis mortality in the United States: National, state, and regional Trends, 2000-2017. Bethesda, MD: NIAAA.
12. Trust for America’s Health (2019). Alcohol and Drug Misuse and Suicide and the Millennial Generation – A Devastating Impact. Washington, DC: Trust for America’s Health.
13. Shiels, M. S., Tatalovich, Z., Chen, Y., Haozous, E. A., Hartge, P., Nápoles, A. M., Pérez-Stable, E. J., et al. (2020). Trends in Mortality From Drug Poisonings, Suicide, and Alcohol-Induced Deaths in the United States From 2000 to 2017. *JAMA network open*, 3(9), e2016217.
14. Brignone, E., George, D. R., Sinoway, L., Katz, C., Sauder, C., Murray, A., Gladden, R., et al. (2020). Trends in the diagnosis of diseases of despair in the United States, 2009-2018: a retrospective cohort study. *BMJ Open*, 10(10), e037679.
15. Pollard, M. S., Tucker, J. S., & Green, H. D. (2020). Changes in Adult Alcohol Use and Consequences During the COVID-19 Pandemic in the US. *JAMA network open*, 3(9), e2022942.
16. Jaffe, A. E., Kumar, S. A., Ramirez, J. J., & DiLillo, D. (2021). Is the COVID-19 Pandemic a High-Risk Period for College Student Alcohol Use? A Comparison of Three Spring Semesters. *Alcoholism, Clinical and Experimental Research*, 45(4), 854–863.
17. Killgore, W. D. S., Cloonan, S. A., Taylor, E. C., Lucas, D. A., & Dailey, N. S. (2021). Alcohol dependence during COVID-19 lockdowns. *Psychiatry Research*, 296, 113676.

18. Allen, B., El Shahawy, O., Rogers, E. S., Hochman, S., Khan, M. R., & Krawczyk, N. (2020). Association of substance use disorders and drug overdose with adverse COVID-19 outcomes in New York City: January–October 2020. *Journal of Public Health*.
19. World Health Organization. (2018). *Global status report on alcohol and health 2018*. Geneva: World Health Organization.
20. Borges, G., Bagge, C. L., Cherpitel, C. J., Conner, K. R., Orozco, R., & Rossow, I. (2017). A meta-analysis of acute use of alcohol and the risk of suicide attempt. *Psychological Medicine*, 47(5), 949–957.
21. National Center for Statistics and Analysis. (2021). State alcohol-impaired-driving estimates: 2019 data (Traffic Safety Facts. Report No. DOT HS 813 106). Washington, DC: National Highway Traffic Safety Administration.
22. Blincoe, L. J., Miller, T. R., Zaloshnja, E., & Lawrence, B. A. (2015). The economic and societal impact of motor vehicle crashes, 2010. (Revised) (Report No. DOT HS 812 013). Washington, DC: National Highway Traffic Safety Administration.
23. Zimmerman, L. B. (2018, June 4). TTB Levies Largest Fine Ever. *Wine-Searcher*. Retrieved August 9, 2021, from <https://www.wine-searcher.com/m/2018/06/ttb-levies-largest-fine-ever>
24. Centers for Disease Control and Prevention (2020). Excessive Alcohol Use. Atlanta, GA: Centers for Disease Control and Prevention.
25. Congressional Research Service (2021). Craft Alcoholic Beverage Industry: Overview and Regulation. Washington, DC: Congressional Research Service.
26. Rossheim, M. E., Thombs, D. L., & Treffers, R. D. (2018). High-alcohol-content flavored alcoholic beverages (supersized alcopops) should be reclassified to reduce public health hazard. *The American Journal of Drug and Alcohol Abuse*, 44(4), 413–417.
27. U.S. Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau. (2008). *Industry Circular Number 2008-3: Non-Compliant Flavored Malt Beverages*. U.S. Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau.
28. Runggay, H., Shield, K., Charvat, H., Ferrari, P., Sornpaisarn, B., Obot, I., Islami, F., et al. (2021). Global burden of cancer in 2020 attributable to alcohol consumption: a population-based study. *The Lancet Oncology*.
29. American Institute for Cancer Research (2020). 2019 AICR Cancer Risk Awareness Survey. Washington, DC: World Cancer Research Fund.
30. Popova, L. (2016). Sugar-Sweetened Beverage Warning Labels: Lessons Learned From the Tobacco Industry. *Journal of the California Dental Association*, 44(10), 633–640.
31. Hammond, D. (2011). Health warning messages on tobacco products: a review. *Tobacco Control*, 20(5), 327–337.
32. Williams, R., Ribisl, K. (2012) Internet Alcohol Sales to Minors. *Arch Pediatr Adolesc Med*. 166(9), 2012;808–813.
33. Siddiqui, F. (2020). Food delivery apps fueled alcohol sales to minors, California regulators find. *The Washington Post*. Retrieved August 9, 2021, from <https://www.washingtonpost.com/technology/2020/05/08/food-delivery-apps-alcohol-sales>.